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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/404,398	09/23/1999	VIKTORS BERSTIS	AT9-99-525	8323

7590 03/12/2003

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ART UNIT	PAPER NUMBER
3622	#18

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Paper No. 18

Application Number: 09/404,398
Filing Date: September 23, 1999
Appellant(s): BERSTIS, VIKTORS

Eustace P. Isidore
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/21/03.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The appellant's statement that the claims of Group I and the claims of Group II stand or fall together in Group I or in Group II, respectively, is correct.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,123,259	OGASAWARA	9-2000
6,129,276	JELEN	10-2000

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-24 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. 11.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara (6,123,259) in view of Jelen (6,129,276).

Claim 1: Ogasawara discloses a method and means for providing a location of products to a customer in a retail environment comprising:

a. attaching a product locator to a shopping aid utilized within a retail environment (Column 4, Lines 40-44), a product locator having an access point for entering a customer ID

(Column 10, 25-41), a signaling mechanism for alerting a customer to a location of a desired product and program for identifying a desired product (Fig. 1; Column 6, Lines 37-59);

b. linking a customer ID to a user specified product (Column 10, Lines 25-41);

c. determining the location of a desired product (Column 6, Lines 37-59);

d. signaling to a customer the location of a desired product (Fig 1.; Column 6, Lines 37-59). Ogasawara further discloses alerting a customer with respect to the location of a desired product (Column 9, Lines 8-15). Ogasawara further discloses a storage location for electronically storing a list of customer desired products (col 2, lines 35-40). Ogasawara does not explicitly disclose that the locator or signaling mechanism utilizes infrared. However, Jelen discloses a shopping cart mounted portable data collection device with tethered dataform reader. Jelen further discloses that the communication scheme utilizes infrared (col 4, lines 22-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Jelen's utilization of infrared to Ogasawara's electronic shopping system. One would have been motivated to do this because Ogasawara already discloses a communication medium and Jelen's infrared communication medium is an obvious option.

Claim 2: Ogasawara and Jelen disclose a method and system as in claim 1 above. Ogasawara further discloses discloses a base unit and portable unit (Fig. 1) comprising:

a. receiving product signals being projected within a retail environment using signal sensor (Column 5, Lines 19-24);

b. transmitting product signals back to a base unit, wherein said base unit completes the comparison and signaling back to said portable unit when said comparing step results in a match, wherein said customer is alerted (Column 5, Lines 26-29).

Claim 3: Ogasawara and Jelen disclose a method and system as in claim 2. Ogasawara does not explicitly disclose storing coupon information or providing information at checkout. However, Jelen further discloses enabling storage of electronic coupons along with said desired products within the locator unit (col 2, lines 30-35 and col 15, lines 10-17), and providing remote electronic redemption coupons associated with said desired products during checkout at a checkout register by beaming information (col 11, line 59-col 12, line 6 and col 15, lines 10-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Jelen's utilization of the locator unit and checkout method to Ogasawara's electronic shopping system. One would have been motivated to do this so that Ogasawara's customer's can benefit from the convenience that Jelen discloses.

Claim 4: Ogasawara and Jelen disclose a method as in Claim 1. Ogasawara further discloses the installation of a signaling mechanism for projecting digitized product information within particular areas of a retail environment (Fig 1.; Column 6, Lines 37-59).

Claim 6: Ogasawara and Jelen disclose a method and system as in Claim 1. Ogasawara further discloses printing a report of including a list of desired products and their location (Fig. 7; Column 8, Lines 1-27).

Claim 7: Ogasawara and Jelen disclose a method and system as in claim 2. Ogasawara further discloses linking a tag to a customer ID following entry of said customer ID in said product locator unit (Column 10, Lines 25-41) and remotely allowing the application of product promotions to be generated at the cash register (Column 15, Lines 51-67; Column 16, Lines 1-11).

Claims 8 and 15: Claims 8 and 15 are rejected based on the same analysis given for the rejection of Claim 1.

Claim 9: Claim 9 is rejected based on the same analysis given for the rejection of Claim 2.

Claim 10: Claim 10 is rejected based on the same analysis given for the rejection of Claim 3.

Claim 11: Ogasawara and Jelen disclose a method as in Claim 1. Ogasawara further discloses the installation of a signaling mechanism for projecting digitized product information within particular areas of a retail environment (Fig 1.; Column 6, Lines 37-59). Ogasawara does not explicitly disclose that the locator or signaling mechanism utilizes infrared. However, Jelen discloses a shopping cart mounted portable data collection device with tethered dataform reader. Jelen further discloses that the communication scheme utilizes infrared (col 4, lines 22-25). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Jelen's utilization of infrared to Ogasawara's electronic shopping system. One would have been motivated to do this because Ogasawara already discloses a communication medium and Jelen's infrared communication medium is an obvious option.

Claims 12 and 19: Ogasawara and Jelen disclose a method and system as in Claim 8 and 15. Ogasawara does not explicitly disclose the locator unit visually displaying a location of a product on a display screen. However, Jelen discloses the locator unit visually displaying a location of a product on a display screen (Fig. 2 and col 6, lines 38-52). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add

Jelen's display unit to Osagawara's electronic shopping system. One would have been motivated to do this so that Osagawara's customers benefit from the convenience that Jelen discloses.

Claim 13 and 20: Claims 13 and 20 are rejected based on the same analysis given for the rejection of Claim 6.

Claim 14: Claim 14 is rejected based on the same analysis given for the rejection of Claim 7.

Claim 16: Ogasawara and Jelen disclose a method and system as in claim 15 above. Ogasawara further discloses discloses a base unit and portable unit (Fig. 1) comprising:

a. receiving product signals being projected within a retail environment using signal sensor (Column 5, Lines 19-24);

b. encoding and transmitting product signals back to a base unit, wherein said base unit completes the comparison and signaling back to said portable unit when said comparing step results in a match, wherein said customer is alerted (Column 5, Lines 26-29).

Claim 17: Ogasawara and Jelen disclose a method and system as in claim 15 above. Ogasawara further discloses receiving product signals being projected within a retail environment using signal sensor (Column 5, Lines 19-24), linking a customer ID to a user specified product (Column 10, Lines 25-41), comparing and determining the location of a desired product (Column 6, Lines 37-59), and signaling to a customer the location of a desired product (Fig 1.; Column 6, Lines 37-59).

Claim 18: Ogasawara and Jelen disclose a method and system as in claim 15 above. Ogasawara further discloses program instructions for receiving a download of coupon data along

with product IDs from a database upon entry of said customer ID (col 15, line 62-col 16-line 6; col 10, lines 33-41; and col 6, line 64-col 7, line5).

Claim 22 and 23: Ogasawara and Jelen disclose a method and system as in claims 1 and 7. Ogasawara further discloses receiving a download of coupon data along with product IDs from a database upon entry of said customer ID (col 15, line 62-col 16-line 6; col 10, lines 33-41; and col 6, line 64-col 7, line5).

Claim 24: Ogasawara discloses a product locator unit comprising:

a. attaching a product locator to a shopping aid utilized within a retail environment (Column 4, Lines 40-44), a product locator having an access point for entering a customer ID (Column 10, 25-41), a signaling mechanism for alerting a customer to a location of a desired product and program for identifying a desired product (Fig. 1; Column 6, Lines 37-59);

b. linking a customer ID to a user specified product (Column 10, Lines 25-41);

c. determining the location of a desired product (Column 6, Lines 37-59);

d. signaling to a customer the location of a desired product (Fig 1.; Column 6, Lines 37-59). Ogasawara further discloses alerting a customer with respect to the location of a desired product (Column 9, Lines 8-15). Ogasawara further discloses a storage location for electronically storing a list of customer desired products (col 2, lines 35-40). Ogasawara does not explicitly disclose that the locator or signaling mechanism utilizes infrared. However, Jelen discloses a shopping cart mounted portable data collection device with tethered dataform reader. Jelen further discloses that the communication scheme utilizes infrared (col 4, lines 22-25). Jelen further discloses enabling storage of electronic coupons along with said desired products within the locator unit (col 2, lines 30-35 and col 15, lines 10-17), and providing remote

electronic redemption coupons associated with said desired products during checkout at a checkout register by beaming information (col 11, line 59-col 12, line 6 and col 15, lines 10-17). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Jelen's utilization of infrared to Ogasawara's electronic shopping system. One would have been motivated to do this because Ogasawara already discloses a communication medium and Jelen's infrared communication medium is an obvious option.

(11) Response to Argument

In Response to Group I Claims: No IR Receiver for Localized Product Identifying Information

In Summary of the Invention, page 2 of the Applicant's Appeal, the Applicant states that, "Appellant's invention provides a method and system for utilizing a product locator unit that receives infrared (IR) signals containing localized product identifying information being broadcasted in a specific area in which the customer is traveling in order to identify when items desired by the customer is in vicinity of the customer".

Additionally, on page 4 of the Argument for Group I claims section of the Appeal, Applicant states that the key features of Applicant's claims are, "(1) an infrared (IR) receiver that receives IR signals with localized product information and (2) a signaling mechanism for alerting the customer to a presence of a desired product identified by the received IR signal."

However, Ogasawara (6,123,259) discloses, "In one particular aspect of the invention, the desired destination item is identified by processing the contents of a customer's shopping list and choosing the closest item to the customer's current location as the desired destination item" (columng 2, lines 55-59), and Ogasawara discloses that,

"Operation of a particular embodiment of the mobile personal shopping terminal (5 of FIG. 1) in accordance with practice of principles of the invention, will now be described with reference to FIGS. 6, 7 and 8. Specifically, shopping convenience is particularly enhanced by a customer location recognition feature of the personal shopping system which is able to recognize a customer's current location in a retail facility and, on the basis of a customer's current location, provide suitable directions or location indicia to promotional items which are located on store shelves most proximate to the customer's current location "(column 6, lines 37-47).

To completely, clearly respond to all features of the applicant's claims, the Ogasawara reference was combined with the Jelen reference.

Jelen discloses, "Yet another advantage of the present invention is the provision of the system which also allows for automated assembly of discount or coupon information which is advantageously aggregated with the product information specific to desired items" (column 2, lines 30-35), and Jelen discloses that,

"The system generally comprises a customer information terminal 10 mounted on a shopping cart 18. The terminal is communicatively linked to a host computer by a wireless LAN 88. A transceiver in the terminal communicates with an transceiver in one of a plurality of access points 54 and 56, which, in turn, communicates with the host 58 via a hard wired network topology and network operating system ("NOS") suitably implemented on an Ethernet or token ring local area network ("LAN") 78. In the preferred embodiment, data communication between the shopping cart 18 and the LAN 88 is accomplished through a radio frequency (RF) link. However, it will be readily appreciated that any medium to short distance

data communication scheme, such as infrared ("IR"), are suitably employed" (Fig. 1, column 4, lines 10-25), and Jelen discloses that,

"Web pages displayable on the terminal 10 advantageously provided, include information pertinent to the customer's shopping experience. The customer terminal 10 generates the link requests based on at least one of: (a) the current web page displayed to the customer, (b) a product identification code as read by bar code reader 22, (c) customer manual data input via interactive touch display screen 14, and (d) location in the store as determined by a transceiver 164. Although, as with the transceiver noted above, any suitable data transmission format may be used, the preferred embodiment employs an infrared IR receiver 164 detecting a unique signature data pattern transmitted by IR transceivers or transmitters 166 (6) and 168 located at fixed locations in the store. Each of these systems will be discussed in more detail" (Fig. 1; Column 4, lines 36-50), and Jelen discloses that,

"Typically a new page will be an advertisement page which is associated with a product near the location of the terminal" (Column 9, line 65-column 10, line 3; Fig. 1), and Jelen discloses that,

"Various customer assistance routines can be requested by the customer which include a recipe search routine, a location assistance routine and order of specially prepared items" (Column 12, line 24-29).

Particularly note Figure 1 and the following reference, both from Jelen,

"Typically a new page will be an advertisement page which is associated with a product near the location of the terminal" (Column 9, line 65-column 10, line 3). With Figure 1 and this reference, Jelen clearly discloses transmitting information to the customer relevant to the

customer's location in the store in relation to the location of items in the store where the position of the customer is determined by a transceiver associated with the customer and the position of the items in the store can be determined based on which transmitting terminal the item's location is near.

Clearly, the combination of Ogasawara and Jelen discloses all the features present in the Applicant's claims.

In Response to Group II Claims: No Automatic Redemption of Coupons by Beaming to Register.

Applicant contests the rejection of Claim 3. In the 103 rejection of Claim 3, Examiner combines the Ogasawara (6,123,259) and Jelen (6,129,276) references.

Applicant states that Claim 3 recites: "providing remote electronic redemption of coupons associated with said desired products during checkout at a checkout register by beaming said coupon information from said product locator to said checkout register when said desired product is scanned at said checkout register".

Examiner points out that Claim 3 is dependent upon Claim 2 which is dependent upon Claim 1. Therefore, Claim 3 includes the rejection of the features present in Claim 2 and Claim 1.

In reference to these features of the Group II claims, the Examiner points out that Ogaswara discloses, "The personal shopping mobile terminal 5 may be configured as a hand-held apparatus, easily carried by a typical shopper, but is preferably mounted on or affixed to the handle portion of a shopping cart (not shown) of the type furnished shoppers for use in a typical

retail facility. Alternatively, the personal shopping terminal 5 may be simply supported on a rack or platform, provided on the shopping cart, during use of the cart, following which the personal shopping terminal 5 may be removed and transported to a checkout facility. (column 4, lines 39-48), and Ogasawara discloses,

"Even if a customer does attempt to purchase an item advertised as being on sale, when the item is scanned during check-out, the price charged to the customer will sometimes not reflect the sales price and will go by unnoticed by the customer. Therefore, there is a need for a shopping system which will aid customers to save time and money during shopping. Such system should give directions to the customer on items to purchase based on the customer's current location, and give suggestions on promotional items and items that the customer may need to replenish." (col 2, lines 3-14), and Ogasawara discloses,

"In the illustrated embodiment of FIG. 6, all merchandise information is maintained in a suitable format in a Price Look Up (PLU) Table which is, in turn, stored and maintained in the database (55 of FIG. 1) of a store's core server unit (50 of FIG. 1). Such a Price Look Up Table (PLU) is maintained in the central database in order that it may be easily accessed by the store manager to affect price changes, allocate **COUPON** related discounts thereto, reflect merchandise location changes, and the like. While desirably maintained in the core server's database, the PLU Table may alternatively be maintained in the mass data storage unit (30 of FIG. 1) comprising a portion of the mobile personal shopping terminal. In the alternative case, the PLU Table, as hosted by the mobile terminal's local storage unit (30 of FIG. 1), is a mirror image of a virtual PLU Table hosted by the store's core server (50 of FIG. 1)." (col 6, line 60-col 7, line 8), and Ogasawara discloses,

"Updating local storage contents may be performed by any number of well known communication methods and might be effected by a LAN connection, an RS-232 connection, IR communication, and the like" (col 7, lines 15-18)

To completely, clearly respond to all features of the applicant's claims, the Ogasawara reference was combined with the Jelen reference.

Jelen discloses,

"Yet another advantage of the present invention is the provision of the system which also allows for automated assembly of discount or coupon information which is advantageously aggregated with the product information specific to desired items" (column 2, lines 30-35),

and Jelen discloses,

"However to facilitate consumer use in an environment where the device does not have a full time Internet link, it is quite possible to store the electronic shopping list program and the coupon file program in the consumer's terminal. Therefore, the device can be used off-line and, when corrected, batch load the shopping list and coupon file up to the merchant's server" (column 15, lines 10-17),

and Jelen discloses,

"FIG. 19a is a flowchart representing the cash checkout program on the server. The program starts at step 400 which represents receipt of the link request from the customer terminal. At step 402 the server returns a page to the customer terminal which instructs the customer to proceed to the cashier. Step 404 represents receipt of confirmation from the cashier that the sale is complete. The cashier will typically have a cashier's terminal communicatively coupled to the host via the network. After receipt of the cashier's confirmation, the server will

send an HTML page with a thank you message to the customer at 406 and the program ends at 408. Typically the thank you page will include a timer to generate a link request for the welcome page after a predetermined period of time. This positions the terminal for the next customer." (column 11, line 59-col 12, line 6)

It is clear from these references that Ogasawara and Jelen disclose transmitting product and coupon information at time of checkout.

Furthermore, Jelen (column 3, lines 30-34; Fig. 16) discloses, "FIG. 16 is a representative HTML page displayed on the touch sensitive display screen of the customer information terminal of FIG. 2 in connection with a routine for checking out items selected for purchase".

Furthermore, Ogasawara (column 16, lines 35-40) states, "For example, the personal shopping system may, when a customer scans an item, also transmit customer information to a point-of-sale (POS) terminal or to a mobile terminal utilized by store clerks."

It is clear from these references that Ogasawara and Jelen disclose the features of the Applicant's claims as presented in Claim 3.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

AO

March 6, 2003

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